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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/761,493

01/20/2004

Yukihiro Shibata

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08/08/2005

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EXAMINER

NGUYEN, TU T

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/761,493	Applicant(s) SHIBATA ET AL.	
	Examiner Tu T. Nguyen	Art Unit 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-36 and 40-42 is/are allowed.
- 6) ☒ Claim(s) 29-32 and 37-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/397,334.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29-32,37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al (5,774,222) in view of Hill (6,091,496).

With respect to claims 29,37, Maeda discloses a method for inspecting a sample. The method comprises: illuminating 3 (fig 1) a sample 1 (fig 1) with an illumination light through an object lens 9 (fig 1); detecting an image of the sample by capturing with a detector 12a and 12b (fig 1) light from the sample illuminated by the illumination light; comparing said detected image with a reference image stored in a memory (abstract); and detecting a defect of the sample from the compared detected image and the reference image.

Maeda does not disclose reducing the amplitude of the light from the sample. Hill discloses a method for measuring samples (column 1, lines 35-40). The method comprises: adjusting the amplitude of a light from a sample (column 19, lines 15-40). It would have been obvious to modify Maeda to adjust the amplitude of the light from the sample to optimize the signal-to-noise as taught by Hill in column 1, lines 35-40. Hill does not explicitly disclose reducing the amplitude of the light. By adjusting the

Art Unit: 2877

amplitude of the light, it would have been obvious that Hill's system could reduce or increase the amplitude of the light.

With respect to claims 30-31,38, Maeda discloses using an elliptically polarized light (abstract) as claimed.

With respect to claim 32, the claimed phase difference plate would have been known in the art. It would have been obvious to modify Hill with the known phase difference plate to reduce the light from the sample to facilitate the measuring.

With respect to claim 39, it would have been obvious to modify Maeda with a controller as claimed to control the illuminating unit to facilitate the measuring.

Allowable Subject Matter

Claims 33-36,40-42 are allowed.

Prior arts of record do not disclose a method of inspecting a sample. The method comprises: the step of detecting a captured light includes reflected light and diffracted light from the sample and an amplitude of the reflected light is decreased between the sample and the detector or controlling the 0-th order diffracted light which structurally arranged and functionally operated as claimed in claims 33,40.

Response to Arguments

Applicant amends to broaden the claims. So applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu T. Nguyen whose telephone number is (571) 272-2424. The examiner can normally be reached on T-F 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Toatley Jr. can be reached on (571) 272-2800 Ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Tu T. Nguyen', with a long, sweeping horizontal stroke extending to the right.

Tu T. Nguyen
Primary Examiner
Art Unit 2877

07/29/2005